



1 THE CLERK: United States of America versus George  
2 Zappola and George Conte, criminal cause for pleading.

3 Can counsel state their appearances for the record.

4 MR. ORENSTEIN: Jaime Orenstein and Stephen Kelly  
5 for the government.

6 THE COURT: Good afternoon, Mr. Orenstein and  
7 Mr. Kelly.

8 MR. WATANABE: For Defendant George Conte, William  
9 Keith Watanabe and Rafael Abromowitz.

10 THE COURT: Good afternoon.

11 MR. LA ROSSA: For the Defendant Zappola, your Honor,  
12 James LaRossa and Andrew Weinstein.

13 THE COURT: All right.

14 Mr. Abromowitz is going to be handling this for your  
15 client?

16 MR. WATANABE: I will be handling the matter, your  
17 Honor.

18 THE COURT: Let me just make a note since this is the  
19 first time that I am focusing on you.

20 Give me your name again.

21 MR. WATANABE: Watanabe, W A T A N A B E.

22 THE COURT: Let's just focus for a moment on how best  
23 we can process all of this. Obviously, we're going to be here  
24 for some period of time since we're talking about the  
25 allocution to many, many counts in the indictment. My

1 suggestion is that we try to combine whatever we can put  
2 together collectively, so to speak. In that respect, in terms  
3 of advising the defendants of their rights and the rights  
4 they'll be waiving if they go forward and plead guilty, et  
5 cetera, if it's agreeable to counsel, I would like to do that  
6 collectively.

7 MR. LA ROSSA: It's agreeable.

8 MR. ORENSTEIN: Yes, your Honor.

9 THE COURT: In terms of the allocution aspects, we're  
10 going to have to do that, obviously, individually. I know of  
11 no other way of doing that. Let's see how it goes along.

12 Do you have any other suggestions, any of you folks,  
13 in terms of how we can properly, effectively process all of  
14 this?

15 Mr. Orenstein?

16 MR. ORENSTEIN: No, Judge. It may prove easier when  
17 we get down to it, for some counts that both defendants are  
18 going to enter pleas to, we could cover that count with one  
19 defendant and then with the next before moving on to the next  
20 count.

21 THE COURT: I take it that there's been a  
22 considerable effort in terms of the allocution that will be  
23 forthcoming, that these matters have been discussed very  
24 carefully, that the defendants realize that they are going to  
25 have to appropriately and clearly allocute.

1 Mr. LaRossa, is there any problem in that respect?

2 MR. LA ROSSA: I think they're going to allocute  
3 properly and completely.

4 THE COURT: Mr. Watanabe?

5 MR. WATANABE: I anticipate no problems, Judge.

6 THE COURT: Let's do this. Let's start by first  
7 acknowledging that I do have two plea agreements. One  
8 purportedly executed by the Defendant Zappola, which I marked  
9 Exhibit 1, and the other purportedly executed by the Defendant  
10 Conte, which I have marked Court Exhibit 2.

11 (So marked)

12 THE COURT: I will address appropriate questions to  
13 each of these defendants in the course of the proceedings.

14 At this time, let's have both defendants sworn.

15 (Defendant George Zappola duly sworn)

16 (Defendant George Conte duly sworn)

17 THE COURT: I also understand now that we do have an  
18 information, and maybe we ought to at this time first waive  
19 indictment.

20 I have the information, which charges Mr. Conte with  
21 six counts. I am looking for the information in respect to  
22 Mr. Zappola, which I do not seem to have.

23 I do have that now.

24 That charges Mr. Zappola with six counts as well.

25 I have now the waiver of indictment signed by Mr.

1 Conte, waiver of indictment signed by Mr. Zappola.

2 Mr. Conte, this is your signature, I take it?

3 DEFENDANT CONTE: Yes, it is.

4 THE COURT: Mr. Zappola, this is your signature?

5 DEFENDANT ZAPPOLA: Yes.

6 THE COURT: Mr. LaRossa, you witnessed Mr. Zappola's  
7 signature?

8 MR. LA ROSSA: I did, sir.

9 THE COURT: Counsel from the defendant here. I can't  
10 make out that signature?

11 MR. WATANABE: I did, Judge.

12 THE COURT: You witnessed that as well?

13 MR. WATANABE: I did.

14 THE COURT: I tell each of you, by signing this waiver  
15 of indictment you have agreed to proceed in respect to those  
16 six counts by information and not by indictment. You have  
17 waived your rights to have a grand jury consider all of this  
18 and prefer charges against you if deemed appropriate to do  
19 so.

20 The waiver of indictment specifically states that you  
21 are each being accused of three counts of murder in aid of  
22 racketeering in violation of 18, U.S.C., Section 1959(a)(1)  
23 and three counts of conspiracy to commit murder in aid of  
24 racketeering in violation of Title 18, U.S.C.,  
25 Section 1959(a)(5).

1           This specifically states that based upon the proposed  
2 information, the nature of the charges, and your rights, you  
3 hereby waive in open court on this day prosecution by  
4 indictment and consent that the proceeding may be by  
5 information rather than by indictment.

6           Do you each understand that?

7           Mr. Conte?

8           DEFENDANT CONTE: Yes.

9           THE COURT: Do you understand that as well,  
10 Mr. Zappola?

11          DEFENDANT ZAPPOLA: Yes.

12          THE COURT: I will sign these at this time.

13          MR. ORENSTEIN: One slight correction.

14          Mr. Zappola's waiver of indictment form specifies two  
15 counts of murder and four counts of conspiracy.

16          THE COURT: You are correct.

17          Let the record reflect that Mr. Zappola is being  
18 charged with two counts of murder in aid of racketeering in  
19 violation of 18, U.S.C., Section 1959(a)(1) and four counts of  
20 conspiracy to commit murder in aid of racketeering in  
21 violation of 18, U.S.C., Section 1959(a)(5).

22          Thank you for correcting me in that respect,  
23 Mr. Orenstein.

24          All right, I have signed both agreements.

25          Having been sworn, Mr. Zappola and Mr. Conte, you can

1 stay seated, if it's more comfortable for you, while I go  
2 through everything.

3 I want you each to understand, first of all, that if  
4 you do not answer questions that I am going to pose to you  
5 honestly, if you do not allocute honestly, if you say anything  
6 that's not correct, that you can be prosecuted for perjury or  
7 for making a false statement.

8 Do you understand that?

9 DEFENDANT CONTE: Yes.

10 DEFENDANT ZAPPOLA: Yes.

11 THE COURT: Let me ask first, Mr. Zappola, to state  
12 your full name.

13 DEFENDANT ZAPPOLA: George Zappola.

14 THE COURT: And, Mr. Conte, state for the record your  
15 full name.

16 DEFENDANT CONTE: George Conte.

17 THE COURT: Mr. Zappola, tell me, how old are you?

18 DEFENDANT ZAPPOLA: I will be 37 tomorrow.

19 THE COURT: Mr. Conte, how old are you?

20 DEFENDANT CONTE: I'm 35 years old.

21 THE COURT: Mr. Zappola, what education or schooling  
22 have you had so far?

23 DEFENDANT ZAPPOLA: Graduated high school.

24 THE COURT: Where was that?

25 DEFENDANT ZAPPOLA: Staten Island, New York. New

1 York High School.

2 THE COURT: Mr. Conte, how about you?

3 DEFENDANT ZAPPOLA: I went to Lafayette High School,  
4 and I stopped at the 10th grade.

5 THE COURT: The 10th grade?

6 DEFENDANT CONTE: Yes.

7 THE COURT: It is obvious both of you are able to  
8 speak English and understand English.

9 Is there any problem I should be made aware of in  
10 that respect, Mr. Zappola, or, Mr. Conte?

11 DEFENDANT CONTE: No.

12 THE COURT: Mr. Zappola, have you had any difficulty  
13 in communicating with your attorney, Mr. LaRossa?

14 DEFENDANT ZAPPOLA: No.

15 THE COURT: Mr. Conte, have you had any problem  
16 communicating with your attorney, Mr. Watanabe?

17 DEFENDANT CONTE: Not at all.

18 THE COURT: Are you presently or have you been under  
19 the care of a physician or psychiatrist, either of you?

20 DEFENDANT CONTE: No.

21 DEFENDANT ZAPPOLA: No.

22 THE COURT: In the past 24 hours, have either of you  
23 taken any narcotic drugs, medicine or pills or drunk any  
24 alcoholic beverages?

25 DEFENDANT CONTE: No.



1 DEFENDANT ZAPPOLA: No.

2 THE COURT: All right.

3 Is your mind clear?

4 Do you have any problems in understanding what is  
5 happening here in court today?

6 Mr. Zappola?

7 DEFENDANT ZAPPOLA: Yeah, my mind is clear.

8 THE COURT: Clear mind.

9 You understand everything that's going on?

10 DEFENDANT CONTE: Yes.

11 THE COURT: A lot of these questions may seem kind of  
12 supercilious or not really terrible relevant, but it is  
13 terribly important that we comply with what the law requires  
14 that we do as judges when we take a plea. Part of this is set  
15 forth in statutes and we have to be meticulous going through  
16 it even though it may seem somewhat not relevant to you.

17 Mr. LaRossa, have you discussed this matter fully  
18 with your client? Are you satisfied he understands the rights  
19 he will be waiving if he goes forward with his contemplated  
20 pleas of guilty? And is he capable of understanding the  
21 nature of all these proceedings?

22 MR. LA ROSSA: He is.

23 THE COURT: Have you discussed this matter with your  
24 client fully?

25 MR. WATANABE: I have.

1 THE COURT: Does he understand the rights he will be  
2 waiving by pleading guilty and does he understand the nature  
3 of these proceedings?

4 MR. WATANABE: He does, your Honor.

5 THE COURT: Do you have any doubts, Mr. LaRossa, as  
6 to Mr. Zappola's competence to plead guilty at this time?

7 MR. LA ROSSA: No, your Honor.

8 THE COURT: Do you have any doubts, Mr. Watanabe, in  
9 respect to your client's competence to plead at this time?

10 MR. WATANABE: No, Judge.

11 THE COURT: Have each of you advised your respective  
12 clients of the maximum sentence and fine that can be imposed,  
13 and have each of you discussed with your respective clients  
14 the operation of the sentencing guidelines and specifically  
15 how they pertain and apply to their circumstances?

16 MR. LA ROSSA: Yes, your Honor.

17 MR. WATANABE: Yes, your Honor.

18 THE COURT: Mr. Zappola, have you had a full  
19 opportunity to discuss your case with Mr. LaRossa? Are you  
20 satisfied with the way he has represented to you to date? Are  
21 you satisfied with having him continue to represent you?

22 DEFENDANT ZAPPOLA: Yes.

23 THE COURT: I ask you the same question, Mr. Conte.  
24 Have you had a full opportunity to discuss your case with your  
25 attorneys, Mr. Abromowitz and Mr. Watanabe? Are you satisfied

1 with their representation?

2 DEFENDANT CONTE: Yes.

3 THE COURT: And are you satisfied with having them  
4 continue to represent you?

5 DEFENDANT CONTE: Yes.

6 THE COURT: The answer is yes to that?

7 DEFENDANT CONTE: Yes.

8 THE COURT: Have each of you received a copy of the  
9 indictment and a copy of the information which has now been  
10 filed, and have each of you consulted with your attorney about  
11 every charge that is set forth in the underlying indictment  
12 and in the information?

13 Mr. Zappola, yes or no?

14 DEFENDANT ZAPPOLA: Yes.

15 THE COURT: Mr. Conte, yes or no?

16 DEFENDANT CONTE: Yes.

17 THE COURT: Do each of you understand all the charges  
18 that have been leveled and brought against you in the  
19 indictment and now in the information?

20 DEFENDANT ZAPPOLA: Yes.

21 DEFENDANT CONTE: Yes.

22 THE COURT: Is there anything about any of these  
23 charges that you have any concerns about or are confused about  
24 or do not understand?

25 Mr. Zappola?

1 DEFENDANT ZAPPOLA: Yes.

2 THE COURT: You understand everything?

3 DEFENDANT ZAPPOLA: Yes.

4 THE COURT: Is there anything that you do not  
5 understand?

6 DEFENDANT ZAPPOLA: No.

7 THE COURT: Mr. Conte?

8 DEFENDANT CONTE: I understand everything.

9 THE COURT: Now, bear with me as I go through the  
10 rights that you have and the rights you will be waiving if you  
11 decide to plead guilty to these charges.

12 I say this to you collectively, so each of you pay  
13 close attention.

14 The first and most important thing you must  
15 understand is that neither of you have to plead guilty even if  
16 you are guilty. Under our system of law, the prosecutor has  
17 the burden of proving the guilt of defendants such as  
18 yourselves beyond a reasonable doubt, and if the prosecutor is  
19 unable to meet that burden of proof, then the jury has the  
20 duty to find the defendant not guilty, even if he is guilty.

21 Furthermore, should a defendant waive their right to  
22 be tried by a jury, then the Judge would have that same  
23 obligation, to find the defendant not guilty, even if they are  
24 guilty, if the government is unable to meet their burden of  
25 proof.

1 Do you understand that, gentlemen?

2 DEFENDANT ZAPPOLA: Yeah.

3 THE COURT: Each of you?

4 DEFENDANT CONTE: Yes.

5 THE COURT: All right.

6 What happens sometimes, in American courtrooms, a  
7 jury has returned a verdict of not guilty even though  
8 everybody in the courtroom was of the opinion that the  
9 defendant was guilty. But what the jury was saying in those  
10 cases is not that the defendant was innocent but rather that  
11 the prosecutor or the government had failed to meet its  
12 burden of proving that the defendant was guilty.

13 That is why I say to you that even if you gentlemen  
14 are guilty, you still have a choice. You may plead guilty, as  
15 you apparently wish to do today, or you may say to the  
16 government, in words or substance, prove it, meet your burden  
17 of proof of my guilt beyond a reasonable doubt.

18 The way you would make that decision is by saying not  
19 guilty to all these charges when I ask you ultimately how you  
20 will plead.

21 Do you each understand that?

22 Mr. Zappola?

23 DEFENDANT ZAPPOLA: Yes.

24 THE COURT: Mr. Conte?

25 DEFENDANT CONTE: Yes.

1 THE COURT: Now, if you decide to persist in your  
2 present status, which is not guilty to all of these charges,  
3 then under the constitution and laws of the United States you  
4 are entitled to a speedy and public trial by jury with the  
5 assistance of counsel on all the charges against you in the  
6 indictment, and now in the information. Of course you haven't  
7 pled to the information yet; there's no need to do that yet.  
8 I will ask you ultimately, of course, how you will plead to  
9 the information.

10 At such a trial you would be presumed innocent and  
11 the government would have to overcome their presumption and  
12 prove you guilty by competent evidence and beyond a reasonable  
13 doubt. You would not have to prove that you are innocent. If  
14 the government were to fail, the jury would have the duty to  
15 find you not guilty, or, once again, if you waived your right,  
16 your absolute right to be tried by a jury and chose to be  
17 tried by a judge, then the judge would have that obligation.

18 By pleading guilty, you will be relieving the  
19 government of the burden of proving that you are indeed guilty  
20 and you will be admitting or confessing to your guilt.

21 Do you understand that?

22 Mr. Zappola?

23 Mr. Conte?

24 DEFENDANT ZAPPOLA: Yes.

25 DEFENDANT CONTE: Yes.

1 THE COURT: Now, should you decide to persist in not  
2 pleading guilty, in the course of the trial, the witnesses for  
3 the government would have to come to court and testify in your  
4 presence and your counsel would have the right to  
5 cross-examine the witnesses for the government, to object to  
6 evidence offered by the government and to offer evidence in  
7 your behalf.

8 At a trial, while you would have the right to testify  
9 if you chose to do so, you could not be required to do that.  
10 Under the constitution of the United States, a defendant in a  
11 criminal trial cannot be forced to take the witness stand at  
12 his trial and say anything that could be used to show that he  
13 is guilty of the crime with which he is charged. We call  
14 that, as you probably realize, a right against  
15 self-incrimination. If you decide not to testify the Court  
16 would instruct the jury that they could not hold that against  
17 you.

18 Do all of you understand that?

19 DEFENDANT ZAPPOLA: Yes.

20 DEFENDANT CONTE: Yes.

21 THE COURT: Now, if you plead guilty, as you  
22 apparently contemplate doing, then I will have to ask you  
23 questions about what you did in order to satisfy myself that  
24 you are indeed guilty of the charges to which you seek to  
25 plead guilty, and you will have to answer my questions and

1 acknowledge your guilt.

2           Thus, you will be giving up the right that I have  
3 just described, that is, the right not to say anything that  
4 would show that you are guilty of the crime with which you are  
5 charged.

6           Do you each understand that?

7           Mr. Zappola?

8           DEFENDANT ZAPPOLA: Yes.

9           THE COURT: Mr. Conte?

10          DEFENDANT CONTE: Yes.

11          THE COURT: If you plead guilty, as you plan to do,  
12 and I accept your plea, you will, therefore, be giving up your  
13 constitutional right to a trial and all the other rights that  
14 I just discussed. There will be no further trial of any kind,  
15 no right to an appeal. I will simply enter a judgment of  
16 guilty upon the basis of your guilty plea.

17          There are some qualifications in respect to whether  
18 you will be able to withdraw your guilty plea that are  
19 contained, as you probably realize, in the plea agreements,  
20 and I will get to that when we go through the plea agreements.

21          But other than those qualifications, I just want you  
22 to understand clearly that there will simply be a judgment of  
23 guilty on the basis of your guilty plea that will be entered.

24          Do you understand that?

25          DEFENDANT ZAPPOLA: Yes.



1 DEFENDANT CONTE: Yes.

2 THE COURT: Aside from what's in the plea agreement,  
3 if I sentence you incorrectly under the law, you would have  
4 the right to appeal to the appellate court, which is the  
5 Second Circuit Court of Appeals, but you will not be able to  
6 withdraw your guilty plea. Your only remedy would be the  
7 right to appeal if I do anything improper. The only  
8 qualification on the fact that you cannot withdraw your guilty  
9 plea is that which is contained in the plea agreement, which I  
10 will be getting to momentarily.

11 Do you all understand that?

12 Mr. Zappola?

13 DEFENDANT ZAPPOLA: Yes.

14 THE COURT: Mr. Conte?

15 DEFENDANT CONTE: Yes.

16 MR. ORENSTEIN: One limitation on what you just said  
17 that is in the plea agreements is that the defendants have  
18 each agreed in their agreements not to file an appeal in the  
19 event that the Court imposes a sentence within the range  
20 specified in the agreement.

21 THE COURT: That's not really a qualification. I am  
22 just talking about if I sentenced him unlawfully.

23 MR. ORENSTEIN: Yes.

24 THE COURT: If I obviously sentenced him, you know,  
25 unlawfully within the range, then they are not going to be

1 appealing.

2 Do you understand that?

3 MR. ORENSTEIN: Yes.

4 THE COURT: But you cannot, Mr. Orenstein, preclude  
5 somebody, from my understanding of the law, from taking an  
6 appeal if I absolutely, flat out, incorrectly sentence them  
7 contrary to law.

8 MR. ORENSTEIN: That's correct, Judge.

9 I am just making sure it is clear that there are  
10 certain claims that are being waived with respect to right to  
11 appeal a sentence that's spelled out in the agreement.

12 THE COURT: Do you understand that?

13 DEFENDANT ZAPPOLA: Yes.

14 THE COURT: Now, having heard all of that,  
15 Mr. Zappola, are you willing to give up your right to a trial  
16 and the other rights I have just discussed?

17 DEFENDANT ZAPPOLA: Yes.

18 THE COURT: Mr. Conte, are you also willing to give  
19 up your right to trial and the other rights that I have just  
20 discussed?

21 DEFENDANT CONTE: Yes, your Honor.

22 THE COURT: Let's look at the plea agreements now.

23 In respect to you, Mr. Zappola, I turn now to Page 9,  
24 the last page of the agreement.

25 I ask you whether, in fact, this is your signature

1 and whether, in fact, you signed this today?

2 DEFENDANT ZAPPOLA: Yes.

3 THE COURT: I ask you the same with respect to your  
4 plea agreement, Mr. Conte: Is this your signature? Did you  
5 sign this today?

6 DEFENDANT CONTE: Yes.

7 THE COURT: Did each of you gentlemen read this?

8 Was it explained to you, in addition to your reading  
9 it, by your respective counsel?

10 DEFENDANT ZAPPOLA: Yes, it was explained.

11 DEFENDANT ZAPPOLA: Yes, sir.

12 THE COURT: Do any of you gentlemen have any question  
13 about anything at all that's contained in this plea agreement  
14 that you are not clear about and would like to question me  
15 about, would like further explanation or anything else?

16 Mr. Zappola?

17 DEFENDANT ZAPPOLA: No.

18 THE COURT: Mr. Conte?

19 DEFENDANT CONTE: No, sir.

20 THE COURT: Now, having those acknowledgments is  
21 helpful but nonetheless I do want to specifically advise you  
22 in open court on the record, Mr. Zappola, and, Mr. Conte, in  
23 this plea agreement you are each pleading guilty to Counts One  
24 and Two of the indictment, which carries a maximum term of  
25 imprisonment of life, a minimum term of imprisonment -- no

1 minimum term, and the statute to which you are contemplating  
2 pleading guilty in respect to Counts One and Two of the  
3 indictment provides for a maximum supervised release term of  
4 five years to follow any term of imprisonment, and further  
5 provides that if a condition of release is violated, that the  
6 defendant may be sentenced up to five years without credit for  
7 prerelease imprisonment or time previously served on  
8 post-release supervision. The statute specifically which you  
9 are pleading guilty to 18, U.S.C., Section 1959(a)(5) in  
10 respect to --

11 MR. ORENSTEIN: I'm sorry, Judge.

12 THE COURT: That's not true. 1962(c).

13 MR. ORENSTEIN: Count One is 1962(c).

14 THE COURT: Count One is 18, U.S.C., Section 1962(c)  
15 and Count Two is 18, U.S.C., Section 1962(d). 1963(a) is  
16 implicated also, apparently.

17 MR. ORENSTEIN: That's the sentencing provision for  
18 the RICO Act.

19 THE COURT: That's the sentencing provision.

20 Under those statutes I have just described to you,  
21 the minimum term of imprisonment, the maximum term of  
22 imprisonment, the maximum supervised release term, I also  
23 advise you that the statutes provide for a maximum fine of  
24 \$250,000 or twice the gross proceeds from the offense. There  
25 is the possibility of restitution, \$50 special assessment,

1 which I suspect is the least of your problems, and provides  
2 for other penalties, and any forfeiture of any interest  
3 acquired or maintained in violation of 18, U.S.C., Section  
4 1962.

5 Now --

6 MR. ORENSTEIN: If I may interrupt with one matter.

7 With respect to supervised release, I believe you did  
8 not warn the defendants about the possibility of revocation  
9 and the possibility of five-year imprisonment if the release  
10 term is revoked.

11 THE COURT: Somewhat academic. The minimum and  
12 maximum sentence is life -- or the maximum sentence is life;  
13 you are quite right.

14 The statute provides further in terms of supervised  
15 release, as I said before, five years to follow any term of  
16 imprisonment and also that if a condition of release is  
17 violated, that the defendant may be sentenced up to five years  
18 without credit for prerelease imprisonment or time previously  
19 served on postrelease supervision.

20 Now, Mr. Zappola, you also are, in your plea  
21 agreement, contemplating pleading guilty to each of Counts  
22 Four, Thirteen, and Fifteen of the indictment and Counts One  
23 through Five of the information.

24 MR. ORENSTEIN: I'm sorry, Judge. It is One and  
25 Two.

1 THE COURT: One and Two of the information.

2 And that's in respect to 18, U.S.C., Section  
3 1959(a)(1), and the statute provides for a maximum term of  
4 imprisonment of life, a minimum term of imprisonment of zero,  
5 and a maximum supervised release term of five years to follow  
6 any term of imprisonment, and if a condition of release is  
7 violated, the defendant may be sentenced up to five years  
8 without credit for prerelease imprisonment or time previously  
9 served on postrelease supervision. The statute further  
10 provides for a maximum fine of \$250,000, the possibility of  
11 restitution and a \$50 special assessment.

12 MR. LA ROSSA: We think you are working off an old  
13 draft, Judge. Do you have the one that's been signed?

14 THE COURT: Is there anything that I said that's not  
15 in the original?

16 MR. ORENSTEIN: No. It was only the numbers that  
17 alerted us to the possibility.

18 THE COURT: I am trying to deal collectively with  
19 those that are in common. I have highlighted the original  
20 draft that way but I have not highlighted the final version  
21 which was given to me, so there may be some glitches in that  
22 respect. So just bear with me.

23 Now, Mr. Conte, you are, also, in your plea agreement  
24 pleading guilty to each of Counts Six, Seven, Eight, Fourteen,  
25 and Sixteen of the indictment and Counts Four through Six of

1 the information. That's in violation of 18, U.S.C., Section  
2 1959(a)(5), which statute provides for a minimum term of  
3 imprisonment of zero and a maximum term of imprisonment of ten  
4 years.

5 The statute also provides the penalties associated  
6 with the violation of the statute also provides for a maximum  
7 supervised release term of three years to follow any term of  
8 imprisonment, and if a condition of release is violated, then  
9 the defendant may be sentenced up to two years without credit  
10 for prerelease imprisonment or time previously served on  
11 postrelease supervision. The statute also provides for a  
12 maximum fine of \$250,000, possible restitution and \$50 special  
13 assessment.

14 Each of you gentlemen are also in your respective  
15 plea agreements pleading guilty to Count Nineteen of the  
16 indictment. I advise each of you collectively now that the  
17 count refers to 18, U.S.C., Section 3, which provides for a  
18 minimum term of imprisonment of zero, maximum term of  
19 imprisonment of 15 years. Also, maximum supervised release  
20 term of three years to follow any term of imprisonment.

21 If a condition of release is violated, the defendant  
22 may be sentenced up to two years without credit for prerelease  
23 imprisonment or time previously served in postrelease  
24 supervision. The statute also provides for a maximum  
25 \$250,000, possible restitution and a \$50 special assessment.

1 I further point out to you gentlemen, each of you in  
2 your respective plea agreements are pleading guilty to  
3 Count Twenty of the indictment.

4 The specific statute which you are pleading guilty to  
5 is 18, U.S.C., Section 1071, and penalties for violating that  
6 statute are a minimum term of imprisonment of zero, a maximum  
7 term of imprisonment of five years and a maximum supervised  
8 release term of three years to follow any term of  
9 imprisonment. If a condition of release is violated, the  
10 defendant may be sentenced up to two years without credit for  
11 prerelease imprisonment or time previously served on  
12 postrelease supervision. The statute also provides for a  
13 maximum fine of \$250,000, possible restitution and a \$50  
14 special assessment.

15 Each of you gentlemen are also pleading guilty to  
16 Count Twenty-one of the indictment. That charges you with  
17 violating 18, U.S.C., Section 371. The penalties for  
18 violating that statutory provision is a minimum term of  
19 imprisonment of zero to a maximum term of imprisonment of five  
20 years, a maximum supervised release term of three years to  
21 follow any term of imprisonment. If a condition of release  
22 is violated, the defendant may be sentenced up to two years  
23 without credit for prerelease imprisonment and time previously  
24 served on postrelease supervision. The statutory provisions  
25 further provide for a maximum fine of \$250,000, possible



1 restitution and \$50 special assessment.

2 Did I miss any?

3 MR. ORENSTEIN: I don't believe so, Judge.

4 MR. ORENSTEIN: Just to make sure the record is  
5 clear, perhaps you could inquire of each defendant if they  
6 understood all the maximum and minimum amounts.

7 THE COURT: I will do that.

8 Mr. Zappola, do you have any question in terms of  
9 your understanding of all of the penalties that apply to  
10 pleading guilty to those charges?

11 DEFENDANT ZAPPOLA: No. No question.

12 THE COURT: Obviously, there's a whole bunch of them.

13 DEFENDANT ZAPPOLA: I wouldn't remember them anyway  
14 so I am not going to ask.

15 THE COURT: Mr. Conte, anything you may not  
16 understand?

17 Do you understand any penalties associated with these  
18 crimes you contemplate pleading guilty to?

19 DEFENDANT CONTE: Yes.

20 THE COURT: I am not going to read the entire plea  
21 agreement. I have no fear about that. I am satisfied that  
22 you have acknowledged that you understand this, that your  
23 attorneys will acknowledge to me now that they have fully  
24 explained the plea agreement to their respective clients.

25 Mr. LaRossa, if that's not the case so tell me.

1 MR. LA ROSSA: That is the case, your Honor.

2 THE COURT: Are you satisfied they understand each  
3 and every aspect of the intricacies of this agreement?

4 MR. LA ROSSA: Completely.

5 THE COURT: Mr. Watanabe, how about you on behalf of  
6 your client?

7 MR. WATANABE: I have explained to him, Judge. He  
8 understands.

9 THE COURT: I think under those circumstances there  
10 is no need for me to go through this, except the waiver issue  
11 is something which is worthy of highlighting I guess.

12 The agreement provides that if I were to reject the  
13 plea agreement, then the defendants will have an opportunity  
14 to withdraw the plea. If I do not reject the plea agreement,  
15 then you're bound by it, and you will not be able to withdraw  
16 the plea come what may.

17 I previously told you that if I were to sentence you  
18 improperly, incorrectly, contrary to the law, then your only  
19 remedy would be to appeal but you could not withdraw your plea  
20 of guilty.

21 Do you understand that perfectly well, Mr. Zappola?

22 DEFENDANT ZAPPOLA: Yes.

23 THE COURT: Do you understand that perfectly well,  
24 Mr. Conte?

25 DEFENDANT CONTE: Yes.

1 THE COURT: Also, with respect to what Mr. Orenstein  
2 alluded to before, that in Paragraph 3 of the plea agreement  
3 each of you defendants agree not to file an appeal in the  
4 event that the Court imposes a sentence at or below that set  
5 forth in Paragraph 2 which spells out the sentence agreement  
6 under Rule 11 of the criminal rules.

7 That is what you were referring to before,  
8 Mr. Orenstein?

9 MR. ORENSTEIN: It was, Judge. Thank you.

10 THE COURT: I just want to pause to commend all of  
11 you for the effort that you made in being very specific in  
12 terms of the names of the people that are set forth in  
13 Paragraph 4. I think attention to that type of draftsmanship  
14 is very important in these matters, as you probably realize,  
15 and you are to be commended for making that type of effort  
16 here. I think it just can save an awful lot of possible  
17 problems that could possibly surface in the future, I am happy  
18 to say.

19 MR. WEINSTEIN: While we're on Paragraph 4, the  
20 language you are talking about I assume is where the  
21 government agrees not to bring any further criminal charges  
22 against the defendants for information provided by them and it  
23 lists a number of cooperating witnesses.

24 I think it's important just to put on the record that  
25 the way we got to that, and included that specific language,

1 the intent of the parties, was to cover all known crimes by  
2 the government. And the government, I believe, is ready to  
3 represent that they are not aware of any information from  
4 other individuals which would not also be covered by the  
5 individuals mentioned in the agreement?

6 THE COURT: Is that an accurate representation by  
7 counsel, Mr. Orenstein?

8 MR. ORENSTEIN: Judge, we have endeavored, and it is  
9 my understanding that all of the understandings between the  
10 parties are reflected in this agreement and that nothing that  
11 is said in this room is going to alter, amend, or add to those  
12 understandings.

13 Now, with respect to what Mr. Weinstein has just  
14 said, it is the government's understanding that there are no  
15 additional crimes that we intend to prosecute. It is  
16 explicitly spelled out. We do not have the power to bind  
17 other districts. However, I have made a representation that I  
18 personally do not know of any other pending charge,  
19 investigation, that may result in an indictment of these  
20 defendants. I wanted to be explicit that I don't have the  
21 power to bind other districts.

22 THE COURT: Are you representing that the Eastern  
23 District office has no such knowledge?

24 MR. ORENSTEIN: I have been asked for representation  
25 of my personal knowledge. I have none. I cannot speak beyond

1 that. The plea agreement which we have worked very hard to  
2 come to has the terms that we agreed to. Those terms are that  
3 we have debriefed the witnesses who are named here. Those  
4 witnesses have provided us with information. We do not intend  
5 to charge these defendants further with any crimes that these  
6 witnesses have provided us information about.

7 THE COURT: "We" meaning the Eastern District?

8 MR. ORENSTEIN: Exactly.

9 THE COURT: Is that perfectly understood?

10 MR. LA ROSSA: Can we go off the record for a minute,  
11 please; permit counsel to talk?

12 THE COURT: You need a chance to chat with each  
13 other?

14 MR. LA ROSSA: Yes.

15 THE COURT: Let's do that.

16 (Pause).

17 THE COURT: The record should be clear nothing is  
18 transpiring off the record except we are accommodating  
19 Mr. LaRossa's request in asking for the opportunity to talk  
20 with Mr. Orenstein.

21 (Pause)

22 THE COURT: You have had an opportunity to chat with  
23 Mr. Orenstein?

24 MR. ORENSTEIN: For the record, we have remained on  
25 the record; we were just conferring among ourselves.

1           The Eastern District is not aware of any crimes,  
2 criminal activity other than the information that's been  
3 provided by these named witnesses. Thus, if there are other  
4 people who are providing information, as far as we are aware,  
5 they are not providing information about crimes not also --  
6 let me start again.

7           THE COURT: Start from the beginning.

8           MR. ORENSTEIN: To the extent there may be other  
9 people who are providing information to us, that information,  
10 as far as we are aware, is duplicative of information provided  
11 by named witnesses in this instrument. Therefore, there are  
12 no additional crimes that we are aware of.

13           MR. WEINSTEIN: Which gets us back to the proposition  
14 that we started with, which is this sentence represents all  
15 known crimes in the Eastern District? It is just worded in  
16 this fashion so that we wanted to be sure, for example, by  
17 naming these individuals -- my concern was, for example, if  
18 there was information provided by somebody who is not listed  
19 here, is that covered?

20           And Mr. Orenstein represented to the extent that  
21 there was any information provided by people not listed, it  
22 would also be duplicative of the information provided by the  
23 people named in the agreement.

24           MR. ORENSTEIN: That's correct.

25           MR. WATANABE: That is our understanding as well,

1 Judge.

2 MR. ORENSTEIN: That is not intended, I am sure  
3 counsel will agree, as an alteration of anything that's in the  
4 written agreement.

5 MR. WEINSTEIN: No. Just to explain how we got to  
6 naming those particular people.

7 THE COURT: You are all being appropriately  
8 circumspect. I think that suffices.

9 My own sense of these things is that if there is any  
10 misrepresentation by the government that rises to the level of  
11 the equivalent of bad faith, that is the type of thing that  
12 would come under due process principles. We had discussions  
13 about this in the course of the hearing that we had. But I am  
14 satisfied that you gentlemen have done the best that you can  
15 to try to contemplate possibilities where we do not have a  
16 crystal ball, perhaps, in front of us. I don't think we can  
17 do better than what you have done right here.

18 So with this colloquy in place now, I will ask  
19 specifically, to be redundant, perhaps, Mr. Zappola and Mr.  
20 Conte, whether you have any questions whatsoever about  
21 anything that was said in court today, any other  
22 representation made by respective counsel, anything contained  
23 in the plea agreement, anything that I have endeavored to  
24 explain to you in terms of your rights, the waiver of your  
25 rights, or anything else that may be on your mind right now?

1 This is a chance to speak to the judge.

2 Mr. Zappola?

3 DEFENDANT ZAPPOLA: No.

4 THE COURT: You are okay with everything?

5 DEFENDANT ZAPPOLA: Yes.

6 THE COURT: Mr. Conte, how about you?

7 MR. WATANABE: One minute, Judge.

8 DEFENDANT CONTE: Yes, I understand, your Honor.

9 THE COURT: All right.

10 Now, I ask each of you whether or not your  
11 willingness to plead guilty results from discussions that took  
12 place between the attorneys for the government and the  
13 defendants or the defendants' attorneys. Mr. LaRossa and Mr.  
14 Watanabe, is there anything else other than what has been  
15 spoken about in court today in respect to the negotiations  
16 that have transpired and whether or not they have had an  
17 impact upon your client's agreeing to this plea agreement and  
18 agreeing to ultimately plead guilty?

19 MR. LA ROSSA: No, sir.

20 THE COURT: Mr. Watanabe?

21 MR. WATANABE: No, Judge.

22 THE COURT: Okay.

23 Now, Mr. Zappola and Mr. Conte, other than the  
24 promises outlined in the plea agreements, has anyone made any  
25 promises that caused you to contemplate pleading guilty?



1 Yes or no?

2 DEFENDANT ZAPPOLA: No.

3 THE COURT: Mr. Conte?

4 DEFENDANT CONTE: No.

5 THE COURT: And, of course, what I have explained to  
6 you in respect to the plea agreement as well.

7 And I ask each of you, has anyone made any promises  
8 as to what your sentence will be other than that what is  
9 contained in the plea agreement and as explained in Court  
10 today?

11 DEFENDANT ZAPPOLA: No.

12 THE COURT: Mr. Conte?

13 DEFENDANT CONTE: No.

14 THE COURT: All right.

15 I want to just reinforce that, of course, the plea  
16 agreement does set forth the agreed-upon sentence under  
17 Rule 11 of the Criminal Rules and that you will be sentenced  
18 in accordance with the agreement and specifically as set forth  
19 in Rule 11 and as required by law and that I will be obliged  
20 to comply with the law in respect to that. I am not going to  
21 go into more detail since I am satisfied that it is fully set  
22 forth in the plea agreement.

23 At this time, I am going to ask you, Mr. Zappola,  
24 whether you are ready to plead. Just tell me yes or no.

25 DEFENDANT ZAPPOLA: Yes.

1 THE COURT: Mr. Conte, are you ready to plead, yes or  
2 no?

3 DEFENDANT CONTE: Yes, sir.

4 THE COURT: Mr. LaRossa, do you know of any reason  
5 why your client should not plead guilty to all of these  
6 charges?

7 Are you aware of any legal defense to the charges?

8 MR. LA ROSSA: No, your Honor.

9 THE COURT: Mr. Watanabe, what say you in respect to  
10 those questions?

11 MR. WATANABE: No, Judge.

12 THE COURT: Mr. Orenstein and/or Mr. Kelly, are you  
13 aware of any information that the Court should be told about  
14 that could possibly affect my willingness to accept these  
15 pleas that are being contemplated here?

16 MR. ORENSTEIN: The government is aware of no  
17 information that should dissuade you from taking these pleas.

18 THE COURT: All right.

19 First, Mr. Zappola, I am going to ask you the  
20 following:

21 How do you plead in respect to Count One of the  
22 indictment; guilty or not guilty?

23 DEFENDANT ZAPPOLA: Guilty.

24 THE COURT: How do you plead in respect to Count Two  
25 of the indictment; guilty or not guilty?

1           DEFENDANT ZAPPOLA: Guilty.

2           THE COURT: How do you plead in respect to  
3 Counts 4, 13 and 15 of the indictment and Counts One and Two  
4 of the information?

5           DEFENDANT ZAPPOLA: Guilty.

6           THE COURT: In respect to each count of the  
7 information and each count of the indictment?

8           DEFENDANT ZAPPOLA: Yes, your Honor.

9           THE COURT: How do you plead in respect to each:  
10 Counts Three, Five, Seven and Six, Seven, Twelve, Fourteen and  
11 Sixteen of the indictment and Counts Three through Six of the  
12 information; guilty or not guilty?

13          DEFENDANT ZAPPOLA: Guilty.

14          THE COURT: How do you plead in respect to Count  
15 Nineteen of the indictment; not guilty or guilty?

16          DEFENDANT ZAPPOLA: Guilty.

17          THE COURT: How do you plead with respect to Count  
18 Twenty of the indictment; guilty or not guilty?

19          DEFENDANT ZAPPOLA: Guilty.

20          THE COURT: How do you plead to Count Twenty-one of  
21 the indictment; guilty or not guilty?

22          DEFENDANT ZAPPOLA: Guilty.

23          THE COURT: Mr. Conte, before I get to you:

24          Mr. Zappola, are you making these pleas of guilty  
25 voluntarily and of your own free will?

1 DEFENDANT ZAPPOLA: Yes.

2 THE COURT: Has anyone threatened or forced you to  
3 plead guilty to any of these counts?

4 DEFENDANT ZAPPOLA: No.

5 THE COURT: Has anyone made any promises as to what  
6 your sentence will be other than what is contained in the plea  
7 agreement and what's been discussed in court today?

8 DEFENDANT ZAPPOLA: No.

9 THE COURT: Mr. Conte?

10 DEFENDANT CONTE: Yes.

11 THE COURT: Are you ready to plead guilty at this  
12 time?

13 DEFENDANT CONTE: Yes, sir.

14 THE COURT: Mr. Watanabe, do you know of any reason  
15 why your client should not plead guilty to these charges? Are  
16 you aware of any legal defense to the charges?

17 MR. WATANABE: No, Judge.

18 THE COURT: And, Mr. Orenstein, once again, does the  
19 government have any knowledge that should be imparted to the  
20 Court with respect to my willingness to accept these pleas?

21 MR. ORENSTEIN: We're aware of nothing that should  
22 dissuade you.

23 THE COURT: At this time, Mr. Conte, I ask you, what  
24 is your plea in respect to each of Counts One and Two of the  
25 indictment; guilty or not guilty?

1 DEFENDANT CONTE: Guilty.

2 THE COURT: What is your plea in respect to each of  
3 Count Fifteen of the indictment and Counts One through Three  
4 of the information; guilty or not guilty?

5 DEFENDANT CONTE: Guilty.

6 THE COURT: What is your plea in respect to each  
7 Counts Six, Seven, Eight, Fourteen and Sixteen of the  
8 indictment, and Counts Four through Six of the information;  
9 guilty or not guilty?

10 DEFENDANT CONTE: Guilty.

11 THE COURT: What is your plea in respect to Count  
12 Nineteen of the indictment; guilty or not guilty?

13 DEFENDANT CONTE: Guilty.

14 THE COURT: What is your plea with respect to Count  
15 Twenty of the indictment; guilty or not guilty?

16 DEFENDANT CONTE: Guilty, your Honor.

17 THE COURT: What is your plea in respect to Count  
18 Twenty-one of the indictment; guilty or not guilty?

19 DEFENDANT CONTE: Guilty.

20 THE COURT: Are you making these pleas of guilty  
21 voluntarily and of your own free will, Mr. Conte?

22 DEFENDANT CONTE: Yes, I am.

23 THE COURT: Has anyone threatened or forced you to  
24 plead guilty to any of these counts or charges?

25 DEFENDANT CONTE: No, sir.

1 THE COURT: Has anyone made any promises to you as to  
2 what your sentence will be in respect to this other than  
3 what's set forth in the plea agreement and as explained to you  
4 in Court today?

5 DEFENDANT CONTE: No, sir.

6 THE COURT: Now, at this time, I guess I will start  
7 with Mr. Zappola in terms of the allocutions.

8 Mr. Zappola, you can stay seated.

9 I am not going to read to you all of these counts but  
10 just, perhaps, it might be helpful if I were to just highlight  
11 some of the aspects of these counts just to maybe assist you  
12 in your allocution.

13 Count One of the indictment refers to dates between  
14 January 1978 to the present date and charges you and others  
15 with being employed by and associated with the Luchese Crime  
16 Family, which enterprise engaged in, and the activities of  
17 which affected, interstate commerce. And it goes on to charge  
18 you with willfully, unlawfully and knowingly conducting and  
19 participating, directly and indirectly, in the conduct of the  
20 affairs of that enterprise through a pattern of racketeering  
21 activity, and specifically sets forth a number of multiple  
22 racketeering acts.

23 At this time, I am going to ask you to tell me, what  
24 did you do in respect to that count that would warrant my  
25 accepting your plea of guilty in respect thereto?

1 DEFENDANT ZAPPOLA: This is Count One.

2 THE COURT: Count One.

3 DEFENDANT ZAPPOLA: From in or about early 1987 and  
4 January 1996 in the Eastern and Southern District of New York  
5 and elsewhere, I was associated with an association in fact  
6 enterprise consisting of myself and others whose activities  
7 affected interstate commerce. During that time period I  
8 willfully and knowingly conducted and participated in the  
9 conduct of the affairs of that association in fact enterprise  
10 through a pattern of racketeering activity. I committed the  
11 following racketeering acts, among others.

12 Racketeering Act One: Conspiracy to murder Michael  
13 Pappadio. From in or about and between approximately 1988 and  
14 May 13, 1989, I conspired and agreed with others to murder  
15 Mike Pappadio in violation of New York Penal Law.

16 In furtherance of the conspiracy, I shot Michael  
17 Pappadio on or about May 13, 1989.

18 THE COURT: I will take them individually.

19 Based on the information given to me by Mr. Zappola,  
20 I find that he is acting voluntarily, he fully understands his  
21 rights and the consequences of his plea of guilty to Count One  
22 of the indictment and there is indeed a factual basis for that  
23 plea. I will, therefore, accept a plea of guilty to Count One  
24 of the indictment.

25 MR. LA ROSSA: Your Honor, we would like him to

1 allocute to the other racketeering acts. I am afraid we have  
2 no choice, sir. There are double jeopardy factors here.  
3 There are other jurisdictions.

4 THE COURT: I didn't mean to be precipitous.  
5 Legally, if he allocuted to one it is sufficient.

6 MR. LA ROSSA: I think you are right but we have a  
7 problem with it.

8 THE COURT: Mr. Orenstein.

9 MR. ORENSTEIN: Judge, he allocuted to one  
10 racketeering act.

11 THE COURT: We need two.

12 MR. ORENSTEIN: You need at least two to form a  
13 pattern.

14 THE COURT: You are right. You want to allocute to  
15 all of them?

16 MR. WATANABE: Yes, Judge.

17 MR. LA ROSSA: Afraid so, sir.

18 Your Honor, could I read them? There is no reason  
19 why I can't.

20 MR. ORENSTEIN: As long as he affirms the truth.

21 MR. LA ROSSA: I can.

22 THE COURT: Listen carefully, Mr. Zappola, because I  
23 am going to ask you whether you understand and whether you  
24 agree.

25 MR. LA ROSSA: Murder of Michael Pappadio.



1 "On or about May 13, 1989, I knowingly, willfully and  
2 intentionally murdered and aided and abetted the murder of  
3 Michael Pappadio in violation of the New York Penal Law.

4 Racketeering Act Number Two, conspiracy to murder  
5 Julius Calder.

6 "From in or about and between approximately 1988 and  
7 June 2nd, 1989, I conspired and agreed with others to murder  
8 Julius Calder, in violation of the New York Penal Law.

9 "In furtherance of the conspiracy I attempted to  
10 murder Julius Calder at a diner in Brooklyn in early 1989."

11 Racketeering Act Three: Conspiracy to Murder - The  
12 New Jersey Faction:

13 "From in or about and between approximately 1989 and  
14 1991, I conspired with others to murder Anthony Accetturo,  
15 Sr., Anthony Accetturo, Jr., Thomas Ricciardi, Joseph LaMorte,  
16 and others whom the government has referred to collectively as  
17 The New Jersey Faction, in violation of New York Penal Law.

18 "In furtherance of the conspiracy I traveled to  
19 Florida in 1988 and 1989 to assist in efforts to locate these  
20 people."

21 Racketeering Act Number Four: Conspiracy to Murder  
22 Peter Chiodo.

23 "From in or about and between 1990 and the spring of  
24 1991, I conspired and agreed with others to murder Peter  
25 Chiodo, in violation of New York Penal Law.

1 "In furtherance of the conspiracy, I assisted others  
2 in attempting to locate Peter Chiodo for the purpose of  
3 killing him."

4 Racketeering Act Number Seven. We are skipping Five  
5 and Six.

6 MR. ORENSTEIN: He is not charged with Five and Six.

7 MR. LA ROSSA: Number Seven: Conspiracy to murder  
8 James Bishop.

9 "From in or about and between approximately April  
10 1990 and May 17, 1990, I conspired and agreed with others to  
11 murder James Bishop, in violation of the New York Penal Law.

12 "In furtherance of the conspiracy I shot James Bishop  
13 on or about May 17, 1990."

14 Murder of James Bishop: "On or about May 17, 1990, I  
15 knowingly, willfully and intentionally murdered and aided and  
16 abetted the murder of James Bishop, in violation of the New  
17 York Penal Law."

18 Racketeering Act Eight: Conspiracy to murder Frank  
19 Mariconda.

20 "From in or about and between approximately  
21 December '91 and February 9th, 1992, I conspired and agreed  
22 with others to murder Frank Mariconda in violation of the New  
23 York Penal Law.

24 "In furtherance of the conspiracy I met with others  
25 to plan the murder of Frank Mariconda.

1 "On or about February 9, 1992, I knowingly, willfully  
2 and intentionally murdered and aided and abetted the murder of  
3 Frank Mariconda, in violation of New York Penal Law."

4 Racketeering Act Nine - conspiracy to murder Richard  
5 Taglianetti:

6 "From in or about and between approximately 1983 and  
7 July 23rd, 1992, I conspired with others to murder Richard  
8 Taglianetti, in violation of the New York Penal Law.

9 "In furtherance of the conspiracy, I conducted  
10 surveillance in Staten Island during the spring and summer of  
11 1992, for the purpose of locating and murdering Richard  
12 Taglianetti."

13 Murder of Richard Taglianetti:

14 "On or about July 23, 1992, I knowingly, willfully  
15 and intentionally murdered and aided and abetted the murder  
16 of Richard Taglianetti, in violation of the New York Penal  
17 Law."

18 Racketeering Act Ten - Conspiracy to murder Richard  
19 Guiga.

20 "From in or about and between approximately 1990 and  
21 1993 I conspired and agreed with others to murder Richard  
22 Guiga, in violation of the New York Penal Law.

23 "In furtherance of the conspiracy I conducted  
24 surveillance in or about February 1992, in Manhattan, for the  
25 purpose of locating and murdering Richard Guiga."

1 THE COURT: Thank you, Mr. LaRossa.

2 Now, Mr. Zappola, there's an awful lot that was read  
3 by Mr. LaRossa. I want to make sure that you understand  
4 everything that was read, that these are your words, that you  
5 adopt them, that you agree with everything that was read and  
6 this does represent your confession and your admission in  
7 respect to Count One.

8 Is there any question about that whatsoever?

9 DEFENDANT ZAPPOLA: No.

10 THE COURT: Now, I will at this time specifically  
11 rule in respect to each of these pleas as we go along that  
12 there is a factual basis for the plea. As I said before, I  
13 think all you need are two racketeering acts, but for reasons  
14 that are good and sufficient reasons known to defense counsel,  
15 and perhaps to the government as well, all of those were  
16 allocuted to.

17 MR. LA ROSSA: So the record is perfectly clear,  
18 there is no issue about the fact that Mr. Zappola is openly  
19 affirming the violation of the law of this count. He is not  
20 agreeing, though, to all of the background of this count that  
21 has nothing to do in effect with the crime itself. His  
22 allocution is his admission of the crime.

23 THE COURT: I am not so sure I know exactly what that  
24 means.

25 MR. LA ROSSA: There are some things in there. The

1 background of the count refers to people --

2 THE COURT: I am only talking about what he allocuted  
3 to.

4 MR. LA ROSSA: That's my point.

5 THE COURT: Are you suggesting that I have heard more  
6 than I need in order to accept the plea of guilty to Count  
7 One?

8 MR. LA ROSSA: That wasn't in response to what you  
9 said. This is kind of "making the record clear" that he's not  
10 accepting all of the background information.

11 THE COURT: He's not accepting everything that's set  
12 forth in the indictment?

13 MR. LA ROSSA: -- in the indictment other than his  
14 allocution.

15 MR. ORENSTEIN: Judge, we agree that the allocution  
16 is sufficient. We, of course, stand ready to prove, if  
17 necessary, everything that is in the indictment.

18 THE COURT: Based on all this information I find that  
19 the defendant is acting voluntarily, fully understands his  
20 rights, the consequences of his plea and that there is indeed  
21 a factual basis for the plea of guilty to Count One of the  
22 indictment. I will therefore accept the plea of guilty to  
23 that count.

24 Let's move on to Count Two.

25 Count Two refers to a period of time between January

1 1978 to the present date. It charges the defendant with  
2 racketeering conspiracy and specifically that he, together  
3 with others, conspired to conduct and participate, directly  
4 and indirectly, in the conduct of the affairs of the  
5 particular enterprise set forth in this indictment through a  
6 pattern of racketeering activity by agreeing to commit and  
7 actually committing the acts of racketeering with which each  
8 such defendant is charged in Count one.

9 In terms of the conspiracy allocution, Mr. LaRossa,  
10 what do you propose? Is he able to allocute on his own or  
11 does he need any assistance?

12 MR. LA ROSSA: Yes, your Honor. It might go  
13 faster.

14 THE COURT: Why don't you do that.  
15 Is it acceptable?

16 MR. ORENSTEIN: As long as whatever Mr. LaRossa  
17 states is adopted by Mr. Zappola.

18 THE COURT: I will ask him specifically after each of  
19 those allocutions.

20 MR. LA ROSSA: Count Two.

21 "From in or about and between the early 1990s and  
22 January 1996, in the Eastern and Southern Districts of New  
23 York and elsewhere, I, being employed by and associated with  
24 an association in fact enterprise consisting of myself and  
25 others, which enterprise engaged and the activities of which

1 affected interstate commerce, conspired and agreed to conduct  
2 and participate, both directly and indirectly, in the conduct  
3 of the affairs of that enterprise through a pattern of  
4 racketeering activity by agreeing to commit and actually  
5 committing, among others, each of the acts of racketeering to  
6 which I have previously allocuted in connection with Count  
7 One.

8 THE COURT: All right.

9 The Court is satisfied that that represents a factual  
10 basis for the plea, provided that Mr. Zappola clearly advises  
11 the Court that that does represent your allocution and that  
12 you adopt what was read by Mr. LaRossa in respect to Count  
13 Two.

14 Any question about that?

15 DEFENDANT ZAPPOLA: No.

16 THE COURT: All right.

17 I will, therefore, accept the plea of guilty to Count  
18 Two and once again I find that the defendant is acting  
19 voluntarily with respect to that count, fully understands his  
20 rights and the consequences of his plea of guilty to that  
21 count, and I specifically have found that there is a factual  
22 basis for the plea.

23 Let's move on to Count Three.

24 MR. WEINSTEIN: He is actually pleading to every  
25 count.

1 THE COURT: Okay. I can do it that way. What I am  
2 doing is following the format set forth in the plea agreement.

3 MR. ORENSTEIN: The plea agreement grouped it by the  
4 sentencing options available for each count. However, it is  
5 possible to just work through the indictment.

6 MR. LA ROSSA: Every count is covered, your Honor.

7 THE COURT: All right.

8 Count Three, Conspiracy to murder Mike Pappadio  
9 refers to the dates between 1988 and May 13, 1989, and in  
10 simplified form, talks about conspiring to murder Michael  
11 Pappadio, in violation of New York Penal Law.

12 Mr. LaRossa.

13 MR. LA ROSSA: "From in or about between  
14 approximately 1988 and May 13th, 1989, in the Eastern and  
15 Southern Districts of New York and elsewhere, and for the  
16 purpose of maintaining and increasing my position in an  
17 association in fact enterprise consisting of myself and  
18 others, which enterprise engaged in racketeering activity, I  
19 conspired and agreed with others to murder Michael Pappadio in  
20 violation of the New York Penal Law.

21 THE COURT: Do you adopt that? Do you agree with  
22 that, Mr. Zappola?

23 DEFENDANT ZAPPOLA: Yes.

24 THE COURT: All right.

25 I find specifically that the defendant is acting



1 voluntarily, fully understands his rights and the consequences  
2 of his plea in respect to Count Three and that there is indeed  
3 a factual basis for that plea. I will therefore accept a plea  
4 of guilty to Count Three of the indictment.

5 Count Four refers to the actual murder of Michael  
6 Pappadio on or about May 13, 1989. What is the allocution  
7 with respect to Count Four?

8 MR. LA ROSSA: On or about May 13, 1989, in the  
9 Eastern District of New York, and for the purpose of  
10 increasing my position in an association in fact enterprise  
11 consisting of myself and others, which enterprise engaged in  
12 racketeering activity, I murdered Michael Pappadio, in  
13 violation of the New York Penal Law."

14 THE COURT: We'll go straight through and I will make  
15 my determinations thereafter.

16 MR. LA ROSSA: Fine, sir.

17 THE COURT: Count five charges Mr. Zappola with  
18 conspiracy to murder Julius Calder.

19 MR. LA ROSSA: "From in or about and between  
20 approximately 1988 and June 2, 1989, in the Eastern and  
21 Souther Districts of New York and elsewhere, and for the  
22 purpose of maintaining and increasing my position in an  
23 association in fact enterprise consisting of myself and  
24 others, which enterprise engaged in racketeering activity, I  
25 conspired and agreed with others to murder Julius Calder, in

1 violation of the New York Penal Law.

2 THE COURT: All right.

3 I will pause just to ask, Mr. Zappola, whether you  
4 agree that with respect to the murder of Michael Pappadio,  
5 that the allocution is correct, and that you adopt and you  
6 embrace and you agree with what has been read by Mr. LaRossa?

7 DEFENDANT ZAPPOLA: Pappadio or Calder?

8 MR. LA ROSSA: That was Calder, but Pappadio before  
9 that.

10 THE COURT: Pappadio before that.

11 DEFENDANT ZAPPOLA: Yes.

12 THE COURT: How about with respect to Calder?

13 DEFENDANT ZAPPOLA: Yes.

14 THE COURT: You agree with all of that?

15 DEFENDANT ZAPPOLA: Yes.

16 THE COURT: You adopt that?

17 DEFENDANT ZAPPOLA: Yes.

18 THE COURT: Count Six deals with conspiracy to murder  
19 - The New Jersey Faction. It refers to dates in or about and  
20 between 1988 and 1991.

21 Mr. LaRossa.

22 MR. LA ROSSA: "From in or about and between  
23 approximately 1988 and 1991, in the Eastern and Southern  
24 Districts of New York and elsewhere, and for the purpose of  
25 maintaining and increasing my position in an association in

1 fact enterprise consisting of myself and others, which  
2 enterprise engaged in racketeering activity, I conspired to  
3 murder Anthony Accetturo, Sr., Anthony Accetturo, Jr., Thomas  
4 Ricciardi, Joseph LaMorte and others, whom the government has  
5 referred to collectively as the New Jersey Faction, in  
6 violation of the New York Penal Law.

7 THE COURT: Do you agree with that, Mr. Zappola?

8 DEFENDANT ZAPPOLA: Yes.

9 THE COURT: Is there any question whether that is  
10 correct? You have no question about that?

11 DEFENDANT ZAPPOLA: No.

12 THE COURT: Count Seven, conspiracy to murder Peter  
13 Chiodo.

14 MR. LA ROSSA: "From in or about and between  
15 approximately early 1991 and May 8, 1991, in the Eastern and  
16 Southern Districts of New York and elsewhere, and for the  
17 purpose of maintaining and increasing my position in an  
18 association in fact enterprise consisting of myself and  
19 others, which enterprise engaged in racketeering activity, I  
20 conspired and agreed with others to murder Peter Chiodo, in  
21 violation of the New York Penal Law."

22 THE COURT: Do you agree with that, Mr. Zappola?

23 DEFENDANT ZAPPOLA: Yes.

24 THE COURT: I think we move forward now to  
25 Count Twelve.

1 MR. LA ROSSA: Yes, we do, your Honor.

2 THE COURT: That's a conspiracy to murder Frank  
3 Mariconda.

4 MR. LA ROSSA: "From in or about and between  
5 approximately December 1991 and February 9, 1992, in the  
6 Eastern and Southern Districts of New York and elsewhere, and  
7 for the purpose of maintaining and increasing my position, in  
8 an association in fact enterprise, consisting of myself and  
9 others, which enterprise engaged in racketeering activity, I  
10 conspired and agreed with others to murder Frank Mariconda, in  
11 violation of the New York Penal Law."

12 THE COURT: Do you concur in that, Mr. Zappola?

13 DEFENDANT ZAPPOLA: Yes.

14 THE COURT: Any question? Any doubts about the  
15 accuracy of what was just stated by Mr. LaRossa?

16 DEFENDANT ZAPPOLA: No.

17 THE COURT: No?

18 DEFENDANT ZAPPOLA: No.

19 THE COURT: Next Count Thirteen, the actual murder of  
20 Frank Mariconda.

21 MR. LA ROSSA: "On or about February 9, 1992, in the  
22 Eastern and Southern Districts of New York and elsewhere, and  
23 for the purpose of maintaining and increasing my position, in  
24 an association in fact enterprise, consisting of myself and  
25 others, which enterprise engaged in racketeering activities, I

1 murdered and aided and abetted the murder of Frank Mariconda,  
2 in violation of the New York Penal Law.

3 THE COURT: Mr. Zappola, once again, do you agree  
4 with that? Do you have any question about the accuracy of  
5 what was just stated by Mr. LaRossa?

6 DEFENDANT ZAPPOLA: No.

7 THE COURT: You agree with, you have no problems  
8 with?

9 DEFENDANT ZAPPOLA: Yes.

10 THE COURT: You adopt it as your words?

11 DEFENDANT ZAPPOLA: Yes.

12 THE COURT: Count Fourteen, conspiracy to murder  
13 Richard Taglianetti.

14 MR. LA ROSSA: "From in or about and between  
15 approximately 1983 and July 23, 1992, in the Eastern and  
16 Southern Districts of New York and elsewhere, and for the  
17 purpose of maintaining and increasing my position in an  
18 association in fact enterprise, consisting of myself and  
19 others, which enterprise engaged in racketeering activity, I  
20 conspired and agreed with others to murder Richard  
21 Taglianetti, in violation of the New York Penal Law.

22 THE COURT: Once again, Mr. Zappola, do you have any  
23 question about the accuracy of what was just stated by  
24 Mr. LaRossa?

25 DEFENDANT ZAPPOLA: No. I murdered Taglianetti.

1 THE COURT: You agree with what was said?

2 DEFENDANT ZAPPOLA: Right.

3 THE COURT: All right.

4 Let's deal with Count Fifteen next, which is the  
5 actual murder of Taglianetti.

6 MR. LA ROSSA: On or about July 23, 1992, in the  
7 Eastern and Southern Districts of New York and elsewhere, and  
8 for the purpose of maintaining and increasing my position in  
9 an association in fact enterprise consisting of myself and  
10 others, which enterprise engaged in racketeering activity, I  
11 murdered and aided and abetted the murder of Richard  
12 Taglianetti, in violation of the New York Penal Law.

13 THE COURT: Is that correct, Mr. Zappola?

14 DEFENDANT ZAPPOLA: I did it. Yes.

15 THE COURT: Count Sixteen, conspiracy to murder  
16 Richard Guiga.

17 MR. LA ROSSA: "From in or about and between  
18 approximately 1990 and 1993, in the Eastern and Southern  
19 Districts of New York and elsewhere, and for the purpose of  
20 maintaining and increasing my position in an association in  
21 fact enterprise consisting of myself and others, which  
22 enterprise engaged in racketeering activity, I conspired and  
23 agreed with others to murder Richard Guiga, in violation of  
24 the New York Penal Law."

25 THE COURT: Is that true?

1 DEFENDANT ZAPPOLA: Yes.

2 THE COURT: All right.

3 We move now to Count Nineteen, accessory after the  
4 fact, referring to the dates between May 30, 1990 and January  
5 19th, 1993.

6 Mr. LaRossa.

7 MR. LA ROSSA: "From in or about and between  
8 approximately May 30, 1990 and January 19, 1993, in the  
9 Eastern and Southern Districts of New York and elsewhere, I  
10 knowingly and intentionally received, relieved, comforted and  
11 assisted Anthony Casso in order to hinder and prevent his  
12 apprehension, trial and punishment, knowing that Anthony Casso  
13 had committed various offenses against the United States,  
14 including, but not limited to, conspiracy to commit murder,  
15 attempted murder and murder, all in aid of racketeering, in  
16 violation of 18, U.S.C., Section 1959.

17 THE COURT: Once again, Mr. Zappola, I know this may  
18 be sounding monotonous, but I am going to make sure that what  
19 Mr. LaRossa is reading is understood by you.

20 Does that represent your words and do you agree with  
21 everything he says and do you adopt that with respect to that  
22 count, as well as the others?

23 DEFENDANT ZAPPOLA: Yes, I do.

24 THE COURT: All right.

25 At this time, I think we are up to Count Twenty.

1 MR. LA ROSSA: "From in or about May 30, 1990, and  
2 January 19, 1939, in the Eastern and Southern Districts of New  
3 York and elsewhere, I knowingly and intentionally harbored and  
4 concealed Anthony Casso, for whose arrest a warrant had been  
5 issued by the federal government, in order to prevent his  
6 discovery and arrest, after I had notice and knowledge of the  
7 fact that such a warrant had been issued for his  
8 apprehension."

9 THE COURT: Once again, Mr. Zappola, do you concur  
10 with what was stated by Mr. LaRossa, do you adopt those as  
11 your own words?

12 DEFENDANT ZAPPOLA: Yes, I do.

13 THE COURT: Count Twenty-one, the last count before  
14 we get to the information.

15 MR. LA ROSSA: "From in or about and between 1978 and  
16 January 1996, in the Eastern and Southern Districts of New  
17 York and elsewhere, I conspired and agreed with others to  
18 defraud the United States by impeding, impairing, obstructing  
19 and defeating the lawful functions of the Treasury Department  
20 the ascertainment, computation and collection of income taxes  
21 due and owing for myself and others.

22 "In furtherance of the conspiracy, I filed a false  
23 and misleading federal income tax return on or about July  
24 25th, 1990, for the year 1989.

25 THE COURT: For the sake of having a brief pause, let



1 me rule that in respect to each of these counts in the  
2 indictment to which the defendant has pled guilty -- and I  
3 take it you also adopt what Mr. LaRossa has just stated in  
4 respect to Count Twenty-one, Mr. Zappola, as well?

5 DEFENDANT ZAPPOLA: Yes.

6 THE COURT: With respect to each of these that I have  
7 not attended to before, which would be Counts Four, Five, Six,  
8 Seven, Twelve, Thirteen, Fourteen, Fifteen, Sixteen, Nineteen,  
9 Twenty, Twenty-one, I find that the defendant is acting  
10 voluntarily with respect to each of these, fully understands  
11 his rights and consequences of his plea of guilty to each of  
12 those counts in the indictment, and that there is indeed a  
13 factual basis for the plea of guilty to each of those counts.  
14 I, therefore accept the pleas of guilty to those counts, and  
15 at this time we will move to the counts set forth in the  
16 information.

17 With respect to that, Count One charges the defendant  
18 with the murder of Anthony DiLapi on or about February 4,  
19 1990.

20 Mr. LaRossa.

21 MR. LA ROSSA: "On or about February 4, 1990, in the  
22 Eastern and Southern Districts of New York, the Central  
23 District of California and elsewhere, and for the purpose of  
24 maintaining and increasing my position in an association in  
25 fact enterprise consisting of myself and others, which

1 enterprise was engaged in racketeering activity, I knowingly,  
2 willfully, deliberately and with premeditation and with malice  
3 aforethought murdered and aided and abetted the murder of  
4 Anthony DiLapi in violation of Section 187 (a) and other  
5 related sections of the California Penal Code and the New York  
6 Penal Law.

7 THE COURT: Mr. Zappola, relief is in sight but I ask  
8 you once again, just as important now as the first time I  
9 asked you these questions: Do you agree with everything that  
10 Mr. LaRossa just stated? Do you adopt that as the truth?  
11 Does this represent your testimony in respect to, so to speak,  
12 your allocution and that you adopt this as your words?

13 DEFENDANT ZAPPOLA: Yes.

14 THE COURT: All right. Count Two, murder of Victor  
15 Filocomo.

16 MR. LA ROSSA: No.

17 THE COURT: Strike that. Let's move on to count --

18 MR. WEINSTEIN: I think you are looking at the  
19 information for Mr. Conte.

20 Count One is the same in both informations.

21 THE COURT: Count Two, murder of John "Otto" Heidel,  
22 on or about October 13, 1987.

23 MR. LA ROSSA: "On or about October 13, 1987, in the  
24 Eastern and Southern Districts of New York and elsewhere, and  
25 for the purpose of maintaining and increasing my position in

1 an association in fact enterprise, consisting of myself and  
2 others, which enterprise was engaged in racketeering activity,  
3 I murdered and aided and abetted the murder of John "Otto"  
4 Heidel, in violation of the New York Penal Law.

5 THE COURT: Do you agree and do you adopt that as  
6 your statement, Mr. Zappola?

7 DEFENDANT ZAPPOLA: Yes, I do.

8 THE COURT: Count Three, conspiracy to murder Robert  
9 Scarpaci in or about the early 1908s.

10 MR. LA ROSSA: "In or about approximately the early  
11 1980s, in the Eastern and Southern Districts of New York and  
12 elsewhere, and for the purpose of maintaining and increasing  
13 my position in an association in fact enterprise consisting of  
14 myself and others, which enterprise was engaged in  
15 racketeering activity, I conspired and agreed with others to  
16 murder Robert Scarpaci, in violation of the New York Penal  
17 Law."

18 THE COURT: Do you agree that this is correctly  
19 stated, Mr. Zappola?

20 DEFENDANT ZAPPOLA: Yes.

21 THE COURT: Count Four, conspiracy to murder Burt  
22 Kaplan in or about 1993.

23 MR. LA ROSSA: "In or about approximately 1993, in  
24 the Eastern and Southern Districts of New York and elsewhere,  
25 and for the purpose of maintaining and increasing my position

1 in an association in fact enterprise consisting of myself and  
2 others, which enterprise was engaged in racketeering activity,  
3 I conspired and agreed with others to murder Burt Kaplan, in  
4 violation of the New York Penal Law."

5 THE COURT: Mr. Zappola, do you agree with that?

6 MR. ZAPPOLA: Yes, I do.

7 THE COURT: Do you adopt that as your statement?

8 DEFENDANT ZAPPOLA: Yes, I do.

9 THE COURT: Count Five, conspiracy to murder Peter  
10 Chiodo's relatives in or about and between July 1, 1991, and  
11 March 1992.

12 MR. LA ROSSA: "From in or about and between  
13 approximately July 1991 and March 1992, in the Eastern and  
14 Southern Districts of New York and elsewhere, and for the  
15 purpose of maintaining and increasing my position in an  
16 association in fact enterprise consisting of myself and  
17 others, which enterprise was engaged in racketeering activity,  
18 I conspired and agreed with others to murder relatives of  
19 Peter Chiodo, specifically Thomas Signorino and Patricia  
20 Cappazola, in violation of the New York Penal Law."

21 THE COURT: Mr. Zappola, do you agree with that?

22 MR. ZAPPOLA: Yes, I do.

23 THE COURT: All right.

24 Last, Count Six, conspiracy to murder Nicholas Guido  
25 and Bob Bering in or about and between October 1986 and

1 January 1993.

2 MR. LA ROSSA: From in or about and between  
3 approximately October '86 and January '93, in the Eastern and  
4 Southern Districts of New York and elsewhere, and for the  
5 purpose of maintaining and increasing my position in an  
6 association in fact enterprise consisting of myself and  
7 others, which enterprise was engaged in racketeering activity,  
8 I conspired and agreed with others to murder Nicholas Guido  
9 and Bob Bering, in violation of the New York Penal Law."

10 THE COURT: Do you agree that that is an accurate  
11 reading and that those represent your involvement in those  
12 matters, Mr. Zappola?

13 DEFENDANT ZAPPOLA: Yes, I do.

14 THE COURT: All right.

15 Based upon all this information given to me, I find  
16 in respect to the six counts in the information that the  
17 defendant is acting voluntarily with respect to each; that he  
18 fully understands his rights, the consequences of his pleas of  
19 guilty, and that there are indeed factual bases for the pleas  
20 of guilty with respect to Counts One through Six of the  
21 information. I will therefore accept the pleas of guilty to  
22 Count One, Two, Three, Four, Five and Six of the information.

23 MR. LA ROSSA: Not to be redundant. Mr. Zappola  
24 again reiterates that is his allocution and the admission of  
25 guilt, and he does not agree with all other statements in both

1 the information that was filed and the indictment.

2 THE COURT: You made your record in that respect.

3 MR. LA ROSSA: Thank you.

4 THE COURT: Is there anything the Court may have  
5 inadvertently omitted in the course of these rather elaborate  
6 proceedings that the government feels obliged to call to my  
7 attention?

8 MR. ORENSTEIN: Judge, after consultation with  
9 counsel, I believe it is our impression that your Honor  
10 covered the waiver of indictment at the very beginning of  
11 these proceedings.

12 THE COURT: I did.

13 MR. ORENSTEIN: Other than that, I believe the  
14 allocution by Mr. Zappola has been sufficient to all of the  
15 counts to which he has pleaded guilty.

16 THE COURT: Anything further from your quarters,  
17 Mr. LaRossa?

18 MR. LA ROSSA: No, sir.

19 THE COURT: Thank you, gentlemen.

20 That takes care of the allocutions and the pleas in  
21 respect to the Defendant Zappola.

22 We shall set a date for sentencing. What is your  
23 preference in respect to that?

24 I've got to get a presentence report.

25 MR. ORENSTEIN: May we suggest we set a date. If it

1 proves inconvenient to the parties or the Court, we can confer  
2 further.

3 MR. LA ROSSA: If we're going to do it in September,  
4 I am going to be out of the country until the --

5 THE CLERK: First week in October, October 4th.

6 THE COURT: I may not be here then.

7 MR. LA ROSSA: Everybody is in custody.

8 THE COURT: Put October 4, 10:00 a.m.

9 Mr. LaRossa, you are free to leave.

10 MR. LA ROSSA: Thank you.

11 THE COURT: Thank you for your cooperation. I am  
12 going to take a five-minute break for obvious reasons, and  
13 we'll then address Mr. Watanabe's client.

14 (Recess).

15 THE COURT: Mr. Watanabe, are you ready to proceed?

16 MR. WATANABE: Yes, Judge.

17 THE COURT: Are you also prepared to use the same  
18 format that Mr. LaRossa did?

19 MR. WATANABE: Yes, Judge, more or less.

20 Does Your Honor mind if I do it from the table?

21 THE COURT: No.

22 We are up to the allocutions.

23 All right.

24 Now, at this time, let's use the same format in going  
25 through the indictment in respect to Mr. Conte.

1           Let me once again first address Count One, the  
2 racketeering count, and of course the various racketeering  
3 acts set forth therein that pertain to Mr. Conte.

4           At this time, Mr. Watanabe, are you prepared to put  
5 forth an allocution for your client's consideration and  
6 adoption?

7           MR. WATANABE: I am, your Honor. However, before I  
8 begin, I would like to reiterate Mr. LaRossa's remarks, that  
9 the allocution that is about to occur constitutes Mr. Conte's  
10 admissions to the crimes to which he would be pleading, and  
11 that with respect to other allegations that may be contained  
12 within the indictment, they are disagreed with and not adopted  
13 in any way, fashion or form.

14           THE COURT: Spoken like an auspicious lawyer but,  
15 obviously, you are talking about what's going to be allocuted  
16 to and whether that satisfies the requisite elements for each  
17 of these counts.

18           With that understanding, you may proceed.

19           MR. WATANABE: With respect to Count One, the RICO  
20 count, "From in or about and between 1987 and in the Eastern  
21 and Southern Districts of New York and elsewhere, I was  
22 associated with an association in fact enterprise consisting  
23 of myself and others whose activities affected interstate  
24 commerce. During that time I willfully conducted and  
25 participated in the conduct of the affairs of that association



1 in fact enterprise through a pattern of racketeering  
2 activity. As part of the pattern of racketeering activity, I  
3 committed the following racketeering acts, among others:

4 Racketeering Act One, Conspiracy to Murder and the  
5 Murder of Julius Calder.

6 MR. ORENSTEIN: If I can interrupt, that's  
7 Racketeering Act Two.

8 MR. WATANABE: Act Two.

9 "From in or about and between 1988 and June 2, 1989,  
10 I conspired with persons known and unknown to murder and did  
11 in fact murder Julius Calder in violation of New York Penal  
12 Law, Sections 125.5 and 20."

13 With respect to Racketeering Act Three, conspiracy to  
14 murder the New Jersey Faction:

15 "From in or about and between 1989 and 1991, I  
16 conspired with others to murder Anthony Accetturo, Sr.,  
17 Anthony Accetturo, Jr., Thomas Ricciardi, Joseph LaMorte and  
18 others, whom the government has referred to collectively as  
19 the New Jersey Faction, in violation of New York Penal Law.

20 THE COURT: Can I just go back. It is getting late  
21 in the day. Racketeering Act One in the indictment refers to  
22 the conspiracy to murder and the murder of Michael Pappadio.

23 MR. WATANABE: That's correct. I was corrected.  
24 The murder of Julius Calder is actually racketeering Act Two.  
25 I clarified myself.

1 THE COURT: So --

2 MR. WATANABE: I misspoke.

3 THE COURT: Michael Pappadio. I am just trying to  
4 find where Mr. Conte's name is set forth in Racketeering Act  
5 One.

6 MR. ORENSTEIN: Judge, Mr. Conte is not charged in  
7 Racketeering Act One.

8 THE COURT: That's what I am concerned about.

9 MR. WATANABE: I misspoke when I said it was  
10 Racketeering Act One.

11 THE COURT: The first one you are talking to is  
12 Racketeering Act Two.

13 MR. WATANABE: Act Two.

14 Yes, sir.

15 MR. ORENSTEIN: Judge, before we move on, past the  
16 Calder murder, I think what's been said so far goes a long way  
17 towards satisfying the elements. It doesn't quite get there.

18 The concern I have is, when Mr. Zappola allocuted,  
19 for instance, to the Pappadio murder, part of his allocution  
20 included a specific act such as shooting or conducting a  
21 surveillance. I think that without some such act being  
22 admitted to by the defendant, which has not yet been heard  
23 with respect to the Calder murder, it is not a sufficient plea  
24 under Rule 11.

25 THE COURT: You know, in terms of the allocution in

1 respect to the enterprise and his association with the  
2 enterprise, pattern of racketeering, they are somewhat  
3 general, but I think they suffice. When it comes to the  
4 requisite minimum two acts, I think they have to be  
5 specifically set forth.

6 Mr. Watanabe, why don't you consider that and reflect  
7 upon that.

8 MR. WATANABE: Yes, sir.

9 With respect to Racketeering Act Two, the conspiracy  
10 to murder and the murder of Julius Calder, in addition to what  
11 I have stated before on the record, in furtherance of the  
12 conspiracy, Mr. Conte murdered Mr. Calder, shot Julius Calder  
13 to death.

14 Does that suffice for the government?

15 MR. ORENSTEIN: It does. Thank you. As long as Mr.  
16 Conte adopts that statement.

17 THE COURT: Was that act related to the affairs of  
18 the enterprise or did the defendant commit these acts by  
19 virtue of his position or involvement in the affairs of the  
20 enterprise? I want to determine that as well.

21 MR. WATANABE: And that the death of Mr. Calder was  
22 in actual furtherance of that association of that enterprise.

23 THE COURT: Mr. Conte, do you hear all of this? Do  
24 you have any question as to the accuracy of what was just  
25 stated by your counsel on the record?

1 Do you agree that that accurately does represent what  
2 your involvement was in respect to Count One and,  
3 specifically, in respect to the first act of racketeering?

4 DEFENDANT CONTE: Yes.

5 THE COURT: Which is really the second one that's set  
6 forth in the indictment?

7 DEFENDANT CONTE: Yes, Judge.

8 THE COURT: All right.

9 Go ahead.

10 MR. WATANABE: Where would the Court like me to  
11 begin?

12 THE COURT: You are going to continue with additional  
13 acts of racketeering here.

14 MR. WATANABE: I will address Racketeering Act  
15 Three.

16 I will again reiterate for the record that from in or  
17 about approximately 1988 and 1991, Mr. Conte conspired with  
18 others to murder Anthony Accetturo, Sr., Anthony Accetturo,  
19 Jr., Thomas Ricciardi, Joseph LaMorte and others -- and the  
20 government has referred to them collectively as the New Jersey  
21 Faction -- in violation of the New York Penal Law.

22 "And in furtherance of that conspiracy I met with  
23 others to discuss the murder of those persons referenced as  
24 the New Jersey Faction."

25 THE COURT: And were these acts related to the

1 affairs of the enterprise?

2 MR. WATANABE: They were, your Honor.

3 THE COURT: Do you agree, Mr. Conte, to everything  
4 that was just set forth by your attorney?

5 DEFENDANT CONTE: Yes, your Honor.

6 THE COURT: Do you adopt that as if you were speaking  
7 the words yourself?

8 DEFENDANT CONTE: Yes, sir.

9 THE COURT: No question about that, is there?

10 DEFENDANT CONTE: No question.

11 THE COURT: Continue.

12 MR. WATANABE: Racketeering Act Four.

13 "From in or about and between 1990 and in the spring  
14 of 1991, I conspired with and agreed with other persons to  
15 murder Peter Chiodo, in violation of New York Penal Law.

16 "In furtherance of the conspiracy, I assisted others  
17 in attempting to locate Peter Chiodo for the purpose of  
18 killing him."

19 THE COURT: Once again, I want you to tell me whether  
20 all of this was related to the affairs of the enterprise.

21 MR. WATANABE: It was, Judge.

22 THE COURT: Go through the rest, and then I will ask  
23 whether he adopts all of this.

24 MR. WATANABE: Okay.

25 Racketeering Act Seven, Conspiracy to Murder James

1 Bishop.

2 "From in or about and between approximately April  
3 1990 and May 17, 1990, I conspired and agreed with others to  
4 murder James Bishop, in violation of New York Penal Law.

5 "In furtherance of the conspiracy I shot" -- Mr.  
6 Conte shot Mr. James Bishop on or about May 17, 1990, and that  
7 such crime was committed in violation of New York Penal Law  
8 and in fact that was done in furtherance of the association in  
9 fact enterprise.

10 THE COURT: Do you agree with that and do you agree  
11 with the prior statements in respect to the racketeering acts  
12 that your counsel has set forth?

13 DEFENDANT CONTE: Yes, your Honor.

14 THE COURT: Do you have any question at all that you  
15 want to speak to your attorney about in respect to that?

16 DEFENDANT CONTE: No, your Honor.

17 THE COURT: Do you have any more, Mr. Watanabe?

18 MR. WATANABE: Yes, I do, Judge.

19 Racketeering Act Nine, conspiracy to murder and the  
20 murder of Richard Taglianetti.

21 "From in or about 1983 and July 23, 1992, Mr. Conte  
22 conspired with oth pē D.Pereira, OCR

1 murder."

2 THE COURT: Once again --

3 MR. WATANABE: And that in or about July 1992,  
4 Mr. Taglianetti was in fact murdered by being shot to death by  
5 George Conte and this was all in furtherance of the  
6 association in fact enterprise.

7 MR. ORENSTEIN: Judge, may I have a moment to confer  
8 with counsel?

9 MR. WATANABE: Go ahead.

10 (Pause.)

11 MR. WATANABE: Judge, I misspoke.

12 I would withdraw that portion that stated that Mr.  
13 Conte shot and killed Mr. Taglianetti. But for the purposes  
14 of this allocution, with respect to the specific racketeering  
15 act, he did in fact conspire with other persons by conducting  
16 surveillance of Mr. Taglianetti and that on a subsequent date  
17 in 1992, Mr. Taglianetti was in fact shot and killed.

18 THE COURT: What other racketeering acts does he wish  
19 to acknowledge and own up and confess to?

20 MR. WATANABE: Racketeering Act Ten, conspiracy to  
21 murder Richard Guiga. That from in or about and between  
22 approximately 1990 and 1993, Mr. Conte conspired and agreed  
23 with others to murder Richard Guiga, in violation of New York  
24 Penal Law.

25 And that in furtherance of the conspiracy, he met and

1 discussed with others the murder of Mr. Guiga, and again, this  
2 act was done in furtherance of the association in fact  
3 enterprise.

4 THE COURT: Anything else?

5 MR. ORENSTEIN: Your Honor, those are all the  
6 racketeering acts with which Mr. Conte is charged.

7 THE COURT: Mr. Conte, having heard your lawyer set  
8 forth all of these acts and everything else that you said in  
9 respect to Count One, do you agree with everything that he  
10 said? Do you adopt what he said as your words?

11 DEFENDANT CONTE: Yes, your Honor.

12 THE COURT: Is there anything at all that he said  
13 that you are in disagreement about whatsoever?

14 DEFENDANT CONTE: No, your Honor.

15 THE COURT: Let's move on to Count Two of the  
16 indictment, racketeering conspiracy.

17 Mr. Watanabe, what does your client say in respect to  
18 that?

19 MR. WATANABE: From in or about and between the  
20 early 1970s and the date of the superseding indictment in the  
21 Eastern and Southern Districts of New York and elsewhere, Mr.  
22 Conte, being employed by and associated with an association in  
23 fact enterprise consisting of himself and others, which  
24 enterprise engaged in the activities of which affected  
25 interstate commerce, did conspire and agree to conduct and



1 participate, both directly and indirectly, in the conduct of  
2 the affairs of that association in fact enterprise through a  
3 pattern of racketeering activity by agreeing to permit and  
4 actually committing, among other things, each of the  
5 racketeering acts to which he had previously allocuted in  
6 Count One.

7 THE COURT: Mr. Conte, do you agree with the  
8 statements made by your attorney in your behalf in respect to  
9 Count Two?

10 Do you adopt them as your words?

11 Do you have any question whatsoever about the  
12 accuracy of what was just said?

13 Do you adopt those as your own words?

14 DEFENDANT CONTE: Yes, I do.

15 THE COURT: You have no question about the accuracy of  
16 what is said?

17 DEFENDANT CONTE: No question.

18 THE COURT: Let's move on to Count Number Six,  
19 conspiracy to murder the New Jersey Faction.

20 What does the defendant have to say in respect to  
21 that count?

22 MR. WATANABE: With regard to Count Six, from in or  
23 about and between approximately 1988 and 1991, in the Eastern  
24 and Southern Districts of New York and elsewhere, and for the  
25 purpose of maintaining and increasing Mr. Conte's position in

1 an association in fact enterprise consisting of himself and  
2 others, which enterprise engaged in racketeering activity, he  
3 conspired to murder Anthony Accetturo, Anthony Accetturo, Jr.,  
4 Thomas Ricciardi, Joseph LaMorte and others, whom the  
5 government has collectively referred to as the New Jersey  
6 Faction, in violation of New York Penal Law, and in  
7 furtherance of such a conspiracy, did in fact meet and discuss  
8 the murder of the above-referenced individuals.

9 THE COURT: Do you agree with all of that, Mr.  
10 Conte?

11 Do you adopt those words as your words?

12 DEFENDANT CONTE: Yes, I do, your Honor.

13 THE COURT: You do.

14 Count Seven, conspiracy to murder Peter Chiodo.

15 MR. WATANABE: Count Seven, conspiracy to murder  
16 Peter Chiodo.

17 From in or about or about and between early 1991 and  
18 May 8, 1991, in the Eastern and Southern Districts of New York  
19 and elsewhere, for the purpose of maintaining and increasing  
20 Mr. Conte's position in an association in fact enterprise  
21 consisting of himself and others, which enterprise engaged in  
22 racketeering activity, he conspired and agreed with others to  
23 murder Peter Chiodo, in violation of New York Penal Law.

24 THE COURT: Do you agree with all of that, Mr.  
25 Conte?

1 DEFENDANT CONTE: Yes, I do.

2 THE COURT: Count Eight, attempted murder of Peter  
3 Chiodo.

4 MR. WATANABE: On or about May 8, 1991, in the  
5 Eastern District of New York and Southern District of New York  
6 and elsewhere, the defendant, Mr. Conte, attempted to murder  
7 Peter Chiodo, in violation of New York Penal Law, by shooting  
8 Peter Chiodo --

9 THE COURT: That's a pretty good attempt.

10 MR. WATANABE: -- for the purpose of maintaining and  
11 increasing his position with the association in fact  
12 enterprise.

13 THE COURT: All right.

14 Do you agree, Mr. Conte, that you did shoot  
15 Mr. Chiodo?

16 DEFENDANT CONTE: Yes, I do.

17 THE COURT: And everything else that was just stated  
18 by your attorney, Mr. Watanabe?

19 DEFENDANT CONTE: Yes, your Honor.

20 THE COURT: Count Fourteen, Conspiracy to Murder of  
21 Richard Taglianetti.

22 MR. WATANABE: From in or about July 23, 1992 in the  
23 Eastern and Southern Districts of New York and elsewhere, and  
24 for the purpose of maintaining and increasing his position  
25 with an association in fact enterprise consisting of myself

1 and others, which enterprise engaged in racketeering activity,  
2 Mr. Conte murdered and aided and abetted the murder of Richard  
3 Taglianetti, in violation of New York Penal Law.

4 THE COURT: This was, once again, done for the  
5 purposes of maintaining and increasing his position in the  
6 Luchese Crime Family, or the enterprise that you had  
7 identified?

8 MR. WATANABE: Your Honor, it is with respect to the  
9 furtherance of the enterprise with respect to the association  
10 in fact enterprise.

11 THE COURT: Okay. Do you agree with all of that, Mr.  
12 Conte?

13 DEFENDANT CONTE: Yes, I do, your Honor.

14 THE COURT: Count Fifteen.

15 MR. WATANABE: Sixteen.

16 THE COURT: I'm sorry, we are up to Fifteen.

17 MR. WATANABE: We're up to Fifteen, excuse me.

18 THE COURT: Now we're talking about the murder  
19 Richard Taglianetti.

20 MR. WATANABE: On or about July 23, 1992, in the  
21 Eastern and Southern Districts of New York and elsewhere, and  
22 for the purpose of maintaining and increasing Mr. Conte's  
23 position in an association in fact enterprise consisting of  
24 himself and others, which enterprise engaged in racketeering  
25 activity, Mr. Conte murdered and aided and abetted in the

1 murder of Richard Taglianetti in violation of New York Penal  
2 Law.

3 THE COURT: Do you agree with all of that, Mr.  
4 Conte? Did you indeed do that?

5 DEFENDANT CONTE: Yes, I did.

6 THE COURT: Count Sixteen, Conspiracy to Murder  
7 Richard Guiga.

8 MR. WATANABE: From in or about approximately 1990  
9 and 1993, in the Eastern and Southern Districts of New York  
10 and elsewhere, and for the purpose of maintaining and  
11 increasing his position in an association in fact enterprise  
12 consisting of himself and others, which enterprise engaged in  
13 racketeering activity, he conspired and agreed with others to  
14 murder Richard Guiga, in violation of New York Penal Law.

15 THE COURT: Did you indeed do that, and do you agree  
16 with everything that your attorney just stated?

17 DEFENDANT CONTE: Yes, I do.

18 THE COURT: Now, Nineteen, Accessory After the Fact.

19 MR. WATANABE: From in or about and approximately May  
20 30, 1990, and January 19, 1993, in the Eastern and Southern  
21 Districts of New York and elsewhere, Mr. Conte knowingly and  
22 intentionally received, relieved, comforted and assisted  
23 Anthony Casso in order to hinder and prevent his apprehension,  
24 trial and punishment, knowing that Anthony Casso had committed  
25 various offenses against the United States, including, but not

1 limited to, conspiracy to commit murder, attempted murder, and  
2 murder, all in aid of racketeering, in violation of 18,  
3 U.S.C., 1959.

4 THE COURT: Do you adopt and do you agree with  
5 everything that was just spoken by your attorney, Mr. Conte?

6 DEFENDANT CONTE: Yes, I do.

7 THE COURT: Count Twenty, Harboring.

8 MR. WATANABE: From in or about May 30, 1990 and  
9 January 19, 1993, in the Eastern and Southern Districts of New  
10 York and elsewhere, Mr. Conte knowingly and intentionally  
11 harbored and concealed Anthony Casso, for whose arrest a  
12 warrant had been issued by the federal government, in order to  
13 prevent his discovery and arrest, after he had notice and  
14 knowledge of the fact that such a warrant had been issued for  
15 his apprehension.

16 THE COURT: Do you have any question in your mind  
17 that that is an accurate statement of the aspects of Count  
18 Twenty as your attorney has just set them forth, Mr. Conte?

19 DEFENDANT CONTE: Yes, your Honor.

20 THE COURT: Do you adopt that as your statement?

21 DEFENDANT CONTE: Yes, I do.

22 THE COURT: Last part of the indictment, Count  
23 Twenty-one, Conspiracy to Defraud the United States.

24 MR. WATANABE: From in or about and between 1978 and  
25 the date of this superseding indictment, in the Eastern and

1 Southern Districts of New York and elsewhere, Mr. Conte  
2 conspired and agreed with others to defraud the United States  
3 by impeding, impairing, obstructing and defeating the lawful  
4 functions of the Treasury Department in the ascertainment,  
5 computation, and collection of income taxes due and owing from  
6 himself and others, and in furtherance of that conspiracy, Mr.  
7 Conte failed to file tax returns in the years 1989, 1990, and  
8 1991.

9 THE COURT: Do you agree that that actually did  
10 happen? Do you agree with everything that was just spread on  
11 the record by your attorney?

12 DEFENDANT CONTE: Yes, I understand.

13 THE COURT: And you adopt that as your acts?

14 DEFENDANT CONTE: Yes, your Honor.

15 THE COURT: Let's move to the information.

16 Count One, murder of Anthony DiLapi on or about  
17 February 4, 1990.

18 MR. WATANABE: Count One of the information, Murder  
19 of Anthony DiLapi.

20 On or about February 4, 1990, in the Eastern District  
21 of New York and elsewhere, including the Central District of  
22 California and elsewhere, and for the purpose of maintaining  
23 and increasing his position in an association in fact  
24 enterprise consisting of himself and others, which enterprise  
25 was engaged in racketeering activity, Mr. Conte did knowingly,

1 willfully, deliberately and with premeditation and malice  
2 aforethought murdered and aided and abetted the murder of  
3 Anthony DiLapi, in violation of Section 187 and other related  
4 sections of the California Penal Code and New York Penal Law.

5 THE COURT: Do you agree that you did that, Mr.  
6 Conte?

7 DEFENDANT CONTE: Yes, I do, your Honor.

8 THE COURT: Count Two, murder of Victor Filocomo on  
9 or about October 18, 1988.

10 MR. WATANABE: On or about October 18, 1988, in the  
11 Eastern and Southern Districts of New York and elsewhere, and  
12 for the purpose of maintaining and increasing his position in  
13 an association in fact enterprise consisting of himself and  
14 others, which enterprise was engaged in racketeering activity,  
15 Mr. Conte murdered and aided and abetted the murder of Victor  
16 Filocomo, in violation of New York Penal Law.

17 THE COURT: Do you agree that you did that, Mr.  
18 Conte?

19 DEFENDANT CONTE: Yes, I do, your Honor.

20 THE COURT: Count Three, murder of Nicholas Izzo on  
21 or about October 27th, 1983.

22 MR. WATANABE: Count three, murder of Nicholas Izzo.  
23 On or about October 27, 1983, in the Eastern and  
24 Southern District of New York and elsewhere, and for the  
25 purpose of maintaining and increasing his position in an



1 association in fact enterprise, consisting of himself and  
2 others, which enterprise was engaged in racketeering activity,  
3 Mr. Conte did murder and aided and abetted the murder of  
4 Nicholas Izzo, in violation of New York Penal Law.

5 THE COURT: Do you agree that you did that?

6 DEFENDANT CONTE: Yes, I did, your Honor.

7 THE COURT: Count Four, Conspiracy to Murder Burt  
8 Kaplan in or about 1993.

9 MR. WATANABE: In or about and approximately 1993,  
10 in the Eastern and Southern Districts of New York and  
11 elsewhere, and for the purpose of maintaining and increasing  
12 his position in an association in fact enterprise consisting  
13 of himself and others, which enterprise was engaged in  
14 racketeering activity, Mr. Conte conspired and agreed with  
15 others to murder Burt Kaplan, in violation of the New York  
16 Penal Law.

17 THE COURT: Do you adopt those words as your words?  
18 Do you agree that that is correct?

19 DEFENDANT CONTE: Yes, I do.

20 THE COURT: Count Five, Conspiracy to Murder Joseph  
21 Marra in or about 1993.

22 MR. WATANABE: In or about 1993, in the Eastern and  
23 Southern Districts of New York and elsewhere, and for the  
24 purpose of maintaining and increasing his position in an  
25 association in fact enterprise consisting of himself and

1 others, which enterprise was engaged in racketeering activity,  
2 Mr. Conte conspired and agreed with others to murder Joseph  
3 Marra, in violation of New York Penal Law.

4 THE COURT: Do you agree that you did that? Do you  
5 adopt that as your words?

6 DEFENDANT CONTE: Yes, I did.

7 THE COURT: Count Six, Conspiracy to Murder John Dunn  
8 in or about the summer of 1988.

9 MR. WATANABE: In or about the summer of 1988, in  
10 the Eastern and Southern Districts of New York and elsewhere,  
11 and for the purpose of maintaining and increasing his position  
12 in an association in fact enterprise consisting of himself and  
13 others, which enterprise was engaged in racketeering activity,  
14 Mr. Conte conspired and agreed with others to murder John  
15 Dunn, in violation of New York Penal Law.

16 THE COURT: All right.

17 Do you adopt that as your words?

18 DEFENDANT CONTE: Yes, I do.

19 THE COURT: Do you agree with everything that was  
20 just said?

21 DEFENDANT CONTE: Yes, I do.

22 THE COURT: No question about that?

23 DEFENDANT CONTE: No question.

24 THE COURT: Based on the information given to me, I  
25 find the defendant is acting voluntarily in respect to each of

1 these pleas, fully understands his rights and the consequences  
2 of each of these pleas of guilty, and that there is indeed a  
3 factual basis for each of these pleas. I therefore accept the  
4 pleas of guilty to Counts One and Two of the indictment, to  
5 Counts Fifteen of the indictment, and each of Counts One  
6 through Three of the information, also as to Count Six, Seven,  
7 Eight, Fourteen and Sixteen of the indictment and Counts Four  
8 through Six of the information. Further, in respect to Counts  
9 Nineteen and Twenty and Twenty-one of the indictment as well.

10 I will also set sentence date for October 4th, if  
11 memory serves me correctly, at 10:00 a.m., in respect to Mr.  
12 Conte as I have done so with respect to Mr. Zappola.

13 At this time, is there any other information or  
14 matters that the government is concerned about that the Court  
15 should be made aware before I conclude these proceedings?

16 Mr. Orenstein, anything further?

17 MR. ORENSTEIN: No.

18 Thank you, your Honor.

19 THE COURT: Mr. Watanabe, anything further in respect  
20 to your client that you wish to put on the record or bring to  
21 my attention at this time?

22 MR. WATANABE: No, Judge.

23 THE COURT: All right.

24 MR. ORENSTEIN: Thank you, Judge. Thank you very  
25 much for staying late and your cooperating personnel.

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I N D E X

E X H I B I T S

<u>Court's</u>	<u>Description</u>	<u>In Evidence</u>
1	Zappola Plea Agreement	4
2	Conte Plea Agreement	4